UNREPORTABLE

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ WP(C).No.631/2005

% Date of Decision : March 09, 2007

SGT. DAGAR RC ..... Petitioner

! Through: Mr. Narender Kaushik, Advocate

Versus

$ UNION OF INDIA & OTHERS ..... Respondents

^ Through: Mr. Rajeev Mehra & Ms. Preeti Dalal, Advocates

CORAM:-
*** HON'BLE MR. JUSTICE T.S. THAKUR**
*** HON'BLE MR. JUSTICE S.N. AGGARWAL**

1. Whether reporters of Local paper may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether the judgment should be reported in the Digest?

S.N. AGGARWAL, J.

The petitioner serving as an Airman in the Indian Air Force has been denied extension of service. He has filed this writ petition seeking a writ of mandamus directing the respondents to grant extension of service to him in accordance with law and to set aside his discharge order RO/2504/2/RW (Dis) dated 19.10.2004.

2 Briefly stated the facts of the case are that the petitioner was

enrolled in the Indian Air Force on 30.12.1983 in Clk/PA trade for an initial term of engagement of 20 years. He was posted to No. HQ WAC (U) Air Force w.e.f. 10.06.2002. He had undergone Clerk Accounts Conversion course from 16.10.2000 to 22.12.2000. On 15.06.2002, the petitioner submitted an option for unwillingness for extension of service as his initial term of regular engagement was to expire on 31.12.2003. The said option given by the petitioner for unwillingness for extension of service was not accepted by the respondents and the terms of his service was extended till 31.12.2005 beyond regular engagement i.e. 31.12.2003 since the petitioner has undergone conversion course and was required to serve for a minimum period of five years in terms of policy of the respondents. On 04.02.2003, the petitioner changed his option from unwillingness to willingness and requested for grant of three years extension of service beyond regular engagement i.e. 31.12.2003. The petitioner had changed his option from unwillingness to willingness in compliance of AFO 11/99. His application for change of option was forwarded to AFRO vide WAC/3212/1/P3 dated 14.02.2003 but the same was not approved by the competent authority. The petitioner, thereafter, filed application for reconsideration of change of option which was strongly recommended with reasoned justification report and the same was forwarded to AFRO. The petitioner's request for extension of service was not approved vide signal No. AFRO/RRD/822 and he was

accordingly informed vide RO/PF-692271/RW/Extn. dated 12.10.2004. The petitioner in this writ petition is aggrieved by the impugned action of the respondents denying him extension of service arbitrarily. He has alleged discrimination stating that in identical cases the respondents have granted extension of service to Sgt. Kashyap and Sgt. Solaskar. He has contended that he has been wrongly denied extension of service by the respondents and has therefore prayed for a writ of mandamus against them that they should grant him extension of service and set aside the discharge order dated 19.10.2004 already issued to him.

In response to notice of this writ petition, the respondents have filed their counter affidavit in which they have denied the averments contained in the writ petition. They have also denied the allegation of discrimination alleged against them and have explained the circumstances under which extension of service has been granted to Sgt. Kashyap and Sgt. Solaskar and why the same has been denied to the petitioner. The respondents have prayed for the dismissal of this writ petition.

The sole question that arise for consideration in this writ petition is whether the petitioner can ask for extension of service as a matter of right or whether he was discriminated in the matter of extension of service as alleged by him.

The initial term of the petitioner's engagement of 20 years was

to expire on 29.12.2003. However, on the bases of his having undergone the Clerk Accounts Conversion course from 16.10.2000 to 22.12.2000 as per para 4 (h) of AFO 11/99 and the course completion report, he was retained in the service till December, 2005. On 15.06.2002, the petitioner had submitted his unwillingness for further extension of service in accordance with AFO 11/99. Subsequently he submitted an application for change of option for extension of service from unwillingness to willingness in January, 2003. His application for change of option was processed in terms of AFO 11/99 but was not approved by AOC, AFRO since he had then not passed the requisite promotion examination which was pre-requisite for grant of extension of service. On passing of said examination, his case for change of option from unwillingness to willingness was processed and referred to Air HQ (VB) for final decision in terms of para 8 of AFO 11/99. The same was, however, not approved by the competent authority. This decision was communicated to his parent unit for intimation to the petitioner on 18.03.2003. The petitioner thereafter vide his application dated 27.04.2004 requested for reconsideration of his case for extension of service. The said application was processed and referred to Air HQ (VB) for final decision. This time too the competent authority did not approve his extension. This decision was communicated to his parent unit for intimation to the petitioner on 29.06.2004.

The grant of extension of engagement to the Airmen is governed under the provisions of Air Force Order 11/99 as amended from time to time. The contents of para 3 of the said Air Force Order are reproduced here-in-below:-

" This policy has been formulated to ensure that only those airmen who meet the minimum criteria are allowed to extend their engagement. An airman who is consistent in his overall performance may be granted extension of engagement, which is governed by the following principles:-

Service requirements
Willingness for extension of engagement
Medical Fitness
Passing of promotion examinations
Conduct records
ACR/Assessments for last five years
Suitability for Extension
Certificate of Undertaking (COU)"

The petitioner had initially submitted his unwillingness for further extension of service on 15.06.2002. At that time, he had requested the authorities that he may be given a posting to home zone (Delhi area) as he wanted to settle down in Delhi after completion of initial period of engagement of 20 years which was to expire on 31.12.2003. His said request was favourably considered by the authorities and he was given

posting from 9 BRD (Pune) to HQ WAC (U) New Delhi, home zone. Thereafter, he made an application on 28.01.2003 for change of option from unwillingness to willingness for extension of engagement and started taking shifting stands. In the first instance, he availed the benefit of home zone posting on the ground of resettlement. On second occasion while he applied for change of option from unwillingness to willingness, he took a stand that his family dispute has been settled amicably. While he applied for reconsideration, he took another stand that he was undergoing heavy mental stress due to ancestral property distribution in his native place. He contended that his elder brother has distributed the ancestral property contrary to his expectation as a result of which he could not get appropriate share in the ancestral property. The respondents have stated that the service of Sgt. Solaskar and Sgt. Kashyap was extended on genuine compassionate grounds in comparison to the shifting stands taken by the petitioner to misguide the authorities for his personal interest. The respondents have further stated that the petitioner had three black ink entries before expiry of five years of his current regular engagement and therefore he could not be considered for grant of extension of service as his conduct sheet was found not clean. We are of the view that extension of service could not have been asked for by the petitioner as a matter of right. The grant of extension of service depends on the individual merit of each case. On perusal of material

on record, we do not find anything wrong in the action of the respondents in denying extension of service to the petitioner.

For the forgoing reasons, we do not find any merit in this writ petition and the same is, therefore, dismissed leaving the parties to bear their own costs.

S.N. AGGARWAL
(JUDGE)

T.S. THAKUR
(JUDGE)

March 09, 2007
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